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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,325	12/14/2001	Bradley Taylor	MPT-003	4911

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BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

EXAMINER

COULTER, KENNETH R

ART UNIT PAPER NUMBER

2141

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,325

Applicant(s)

TAYLOR, BRADLEY

Examiner

Kenneth R. Coulter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 25-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 21-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/12/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Drawings***

1. The drawings are objected to because Figure 1 is upside down.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

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- I. Claims 1 – 20 and 25 - 27, drawn to demand based messaging, classified in class 709, subclass 206.
- II. Claims 21 - 24, drawn to a network connection establishing, classified in class 709, subclass 227.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions establishing a network connection and a processing agent have different modes of operation and different functions.

In an interview on 6/24/05 and a subsequent interview on 9/16/05, Applicant's representative Jeanette Harms (Reg. No. 35,537) indicated that Group I was to be elected with traverse.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or
- (2) a patent granted on an application for patent by another filed in the United States before

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the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 20 and 25 – 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Didcock (U.S. Pat. No. 6,396,907) (Unified Messaging System and Method Providing Cached Message Streams).

4.1 Regarding claim 1, Didcock discloses a method of providing a fast path message transfer agent, the method comprising:

receiving bytes of a message over a network connection (Abstract “streams message data”; Figs. 2, 3; col. 2, lines 20 - 29);

determining whether the number of bytes exceeds a predetermined threshold, wherein if not, then writing the message only to a memory, and wherein if so, then writing the message to the memory and a non-volatile storage (Abstract; Figs. 2, 3; col. 2, lines 32 – 42; col. 3, lines 3 - 22).

4.2 Per claim 2, Didcock teaches the method of claim 1, wherein writing the message to the memory and the non-volatile storage includes:

writing a portion of the bytes up to the predetermined threshold to the memory; and storing a remainder of the bytes onto the non-volatile storage (Abstract; Figs. 2, 3; col. 2, lines 32 – 42; col. 3, lines 3 - 22).

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4.3 Regarding claim 3, Didcock discloses the method of claim 2, wherein writing the message to the memory and the non-volatile storage further includes:

determining whether all bytes of the message have been received

(Abstract; Figs. 2, 3; col. 2, lines 32 – 42; col. 3, lines 3 - 22);

wherein if not, then receiving additional bytes of the message over the network connection (Abstract; Figs. 2, 3; col. 2, lines 32 – 42; col. 3, lines 3 - 22); and

writing the additional bytes onto the non-volatile storage (Abstract; Figs. 2, 3; col. 2, lines 32 – 42; col. 3, lines 3 - 22); and

wherein if so, then proceeding to re-route the message (Abstract; Figs. 2, 3; col. 2, lines 32 – 42; col. 3, lines 3 - 22).

4.4 Per claim 4, Didcock teaches the method of claim 3, wherein if the number of bytes is less than the predetermined threshold and all bytes of the message have been received, then proceeding to re-route the message (Abstract; Figs. 2, 3; col. 2, lines 32 – 42; col. 3, lines 3 - 22).

4.5 Regarding claim 5, Didcock discloses the method of claim 4, further including:

accessing the message (Abstract; Figs. 6A, 6B; col. 9, line 66 – col. 10, line 21);

sending the message to each destination (Abstract; Figs. 6A, 6B; col. 9, line 66 – col. 10, line 21); and

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determining whether the message was received successfully by each destination (Abstract; Figs. 6A, 6B; col. 9, line 66 – col. 10, line 21).

4.6 Per claim 6, Didcock teaches the method of claim 5, wherein if the message was received successfully by each destination, then

removing the message from the memory and the non-volatile storage, if on the non-volatile storage (Abstract; Figs. 6A, 6B; col. 9, line 66 – col. 10, line 21); and

indicating a successful receipt of the message (Abstract; Figs. 6A, 6B; col. 9, line 66 – col. 10, line 21).

4.7 Regarding claim 7, Didcock discloses the method of claim 6, wherein if the message was not received successfully by each destination, then

identifying all failed destinations (Abstract; Figs. 6A, 6B);

storing the message on the non-volatile storage (Abstract; Figs. 6A, 6B);

and

indicating a successful receipt of the message (Abstract; Figs. 6A, 6B).

4.8 Per claim 8, Didcock teaches the method of claim 7, further including retrying the failed destinations after a delay (Abstract; Figs. 6A, 6B).

4.9 Regarding claim 9, Didcock discloses the method of claim 8, further including:

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determining whether the message is successfully received by the failed destinations, wherein if not, then returning to the step of retrying the failed destinations after a delay (Abstract; Figs. 6A, 6B); and

wherein if so, then removing the message from the non-volatile storage (Abstract; Figs. 6A, 6B).

4.10 Per claim 10, Didcock teaches the method of claim 9, further including disabling the fast path message transfer agent if a predetermined condition exists (Abstract; Figs. 2, 3; col. 2, lines 32 – 42; col. 3, lines 3 - 22).


4.11 Regarding claims 11 - 20 and 25 – 27, the rejection of claims 1 – 10 under 35 USC 102(e) (paragraphs 4.1 – 4.10 above) applies fully.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER
PRIMARY EXAMINER


krc